

Service Date: November 16, 2001

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER of)	UTILITY DIVISION
the Joint Application for Approval of the)	
Sale of Montana Power Company)	DOCKET NO. D2001.1.5
To NorthWestern Corporation)	ORDER NO. 6353b

PROTECTIVE ORDER

On November 14, 2001 the Montana Power Company (MPC) and Northwestern Corporation (NW) filed by fax a Joint Motion for Protective Order in this docket. Generally MPC and NW ask that information they are required to produce in response to data requests, and that is proprietary business and trade secret information of a kind typically protected in Montana Public Service Commission (Commission) proceedings, be covered by protective order. In addition, MPC and NW identify specific categories of information “regarding Touch America’s financial data and business plans and related information and information regarding the actual bids for the utility business[,]” that is so sensitive that it will only be available in MPC’s Butte offices and “no copies can be made of it.”

The Commission determines that information identified in the Joint Motion, as well as other information not identified at this time, could be confidential and subject to protection from public disclosure pursuant to Montana law. Such information, designated proprietary by the provider and filed on yellow paper pursuant to ARM 38.2.5015, will be protected by this Order and ARM 38.2.5010. The specially sensitive information identified by MPC/NW is also protected by this order. However, the specific and exclusive method of making that information available (in Butte, no copies) stated by MPC/NW is not approved. Intervenors should work with MPC/NW in order to gain access to the information in a manner consistent with its special sensitivity. If access to the information can be accomplished in the manner suggested by MPC/NW, without compromising the integrity of the intervenors’ and the Commission’s investigation, or creating unreasonable burdens on intervenors or the Commission, then the manner suggested should be followed. If not, then alternative arrangements for access to the information will have to be made. If alternate arrangements have to be made, the Commission

urges all parties and its staff to agree on an acceptable alternative. If agreement is not possible the parties should bring the matter to the Commission without delay.

Therefore, the Commission grants MPC's motion and hereby orders that information submitted in accordance with this Order be treated as "confidential information" under the terms of this Order and ARM 38.2.5001-5030 (available on the web at http://psc.state.mt.us/pdf/Sub_50_Protective_orders.pdf).

DONE AND DATED this 15th day of November, 2001, by a vote of 3-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

GARY FELAND, Chairman

BOB ANDERSON, Commissioner

MATT BRAINARD, Commissioner

ATTEST:

Rhonda J. Simmons
Commission Secretary

(SEAL)

NOTE: There is no reconsideration of this order. There is a procedure to challenge the provider's claim of confidentiality. See ARM 38.2.5008. Reconsideration of a denial of a protective order is available in accordance with ARM 38.2.4806.

Nondisclosure Agreement

ARM 38.2.5012

Docket No. D2001.1.5

Order No. 6353b

Order Action Date 11/15/01

I understand that in my capacity as counsel or expert witness for a party to this proceeding before the commission, or as a person otherwise lawfully so entitled, I may be called upon to access, review, and analyze information which is protected as confidential information. I have reviewed ARM 38.2.5001 through 38.2.5030 (commission rules applicable to protection of confidential information) and protective orders governing the protected information that I am entitled to receive.* I fully understand, and agree to comply with and be bound by, the terms and conditions thereof. I will neither use nor disclose confidential information except for lawful purposes in accordance with the governing protective order and ARM 38.2.5001 through 38.2.5030 so long as such information remains protected.

I understand that this nondisclosure agreement may be copied and distributed to any person having an interest in it and that it may be retained at the offices of the provider, commission, consumer counsel, any party and may be further and freely distributed.

Typed or Printed Name

Signature

Date of Signature

Business Address:

Employer

Party Represented

*These rules are available on the web at http://psc.state.mt.us/pdf/Sub_50_Protective_orders.pdf).